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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.				
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EXAMINER				
AL HASHEMI, SANA A				
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Technology Center 2100

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/869,164  
Filing Date: June 25, 2001  
Appellant(s): ISHIGURO ET AL.

\_\_\_\_\_  
Bradley D. Lytle  
For Appellant

**EXAMINER'S ANSWER**

**(1) Real Party in Interest**

A statement identifying the real party in interest is contained in the brief

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

This is in response to the appeal brief filed May 15<sup>th</sup>, 2006 appealing from the Office action mailed November 14<sup>th</sup>, 2005.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5,845,281

Benson et al.

12-1998

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, and 19-33 are rejected under 35 U.S.C. 102(b) as being anticipated by  
Benson et al. (Benson hereinafter) (US Patent No. 5,845,281).

Regarding Claims 1, 2, 3, 26, 32, and 33, Benson discloses an apparatus for managing  
using condition information corresponding to the content comprising:

means for receiving said using condition information, described in a first format the using  
condition information indicating usage rules corresponding to the content data (Fig. 1, 42, Col. 5,  
lines 24-28, Benson);

means for converting said first format of said using condition information into a

second format (Col. 6, lines 40-43, Benson), said second format being different from the first format (Col. 6, 7, lines 43-48, 53-59, respectively, Benson); and

means for transmitting the using condition information described in the second format (Col.7, lines 15-22, Benson).

Regarding Claims 19, 20, and 21, Benson discloses a data processing apparatus for managing using condition information corresponding to the content data, said data processing apparatus comprising:

means for receiving said using condition information, described in a first format the using condition information indicating usage rules corresponding to the content data (Fig. 1, 42, Col. 5, lines 24-28, Benson); and

means for converting said first format of said using condition information into a second format, said second format being different from the first format (Col. 6, 7, lines 43-48, 53-59, respectively, Benson);

wherein the using condition information includes at least one item comprising an item name and a value corresponding to the item name and the using condition information described in the second format is substantially equal in meaning to the using condition information described in the first format (Col. 7, lines 2-14, Benson).

Regarding Claims 22, and 28, Benson discloses an apparatus for managing using condition information of claim 1, further comprising:

means for decrypting the using condition information described in the first format (Col. 11, 41-47, Benson);

means for encrypting the using condition information described in the second format (Col. 11, lines 57-63, Benson).

Regarding Claims 23, and 29, Benson discloses an apparatus for managing using condition information wherein the using condition information includes a limit of reproductions of the content data (Col. 12, lines 58-65, Benson).

Regarding Claims 24, and 30, Benson discloses an apparatus for managing using condition information, wherein the using condition information includes a period of time (Col. 15, lines 41-46, Benson).

Regarding Claims 25, and 31, Benson discloses an apparatus for managing using condition information wherein the using condition information includes cost data Col. 7, lines 63-67, Benson).

Regarding Claim 27, Benson discloses an apparatus for managing using condition information further comprising:

a decryption device configured to decrypt the using condition information described in the first format (Col. 15, lines 14-22, Benson).

#### **(10) Response to Argument**

Appellant argues that the Benson reference fails to disclose the limitation of “converter configured to convert said first format of said suing condition information into a second format”.

Examiner respectfully disagrees. First let’s see what is the *using condition information*, the specification discloses on pages 1-2, lines 15-18, and 1-3 respectively, the contents purveyor must supervise the copyright of the contents. So, the contents distributor recognizes the users,

who have accessed the Web over the Internet, by the ID information or the secret identification code, to distribute the encrypted music contents only to an authorized user. The contents purveyor also append the using condition information to the music contents to be furnished to the User. And page 45, lines 16-21 the using condition as “The reproduction application A311 also manages the using condition information appended to each music contents number of times of reproduction is stated in the using condition information, such that limitations are imposed on the number of times of possible contents reproduction, the For example, if a limit value for the reproduction application A311 decrements the limit value of the number of times of reproduction or duplication by 1 for each reproduction or duplication.” In light of the instant application the specification the “*usage condition information*” is defined as a way of securing data before the data can be downloaded to a user in order to control the number of times a file can be accessed by a specific user. The applied art discloses in numerous citations that teaches a method of securing data for example Col. 3, lines 11-32, the Benson teaches the “general set of control data, which is based on the predetermined conditions for usage of the data object”. And on the same column lines 45-48, Benson teaches “the user may request authorization for usage of a data object”, and refereeing to Col. 5, lines 47-59, the Benson teaches “the above-mentioned data packaging can be carried out by the author himself by means of the data packaging program 19. As an alternative, the author may send his data object to a broker, who inputs the data object and the usage conditions determined by the author to the data packaging program 19 in order to create a secure package 3. The author may also sell his data object to the broker. In that case, the broker probably wants to apply his own usage conditions to the data-packaging program. The author may also provide the data object in a secure package to the broker, who repackages

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the data object and adds further control data, which is relevant to his business activities. Various combinations of the above alternatives are also conceivable. And be referring to col. 8, lines 36-40, Benson discloses the number of usage for each data object for a fee, and refereeing to Col. 9-10, lines 61-67, and 1-5 respectively Benson disclose the request for authorization to access a "data package" which includes a data object along with set of control data as disclosed in Col. 9, lines 2936, to a user specific request. Going back to the Appellant argument regarding the method of "convert said first format of said using condition information into a second format" the Benson as shown in Fig. 3 step 306 a format modules and as described in Col. 6, lines 40-48, the format module comprises a program code which corresponds to the converter that converts data object in their native format, in other words if the data package received in different format the program code will convert that data to it's native format and Examiner believes the cited portions of the Benson reference clearly corresponds to the argued limitation.

Appellant argues that the Benson reference discloses the coveter that converts first format of using condition information into a second format, said second format being different from the first format.

Examiner disagrees. Benson discloses a data packaging which contains the data object, and it's associated data control which includes the title, format code, and security code, the format code may represent the format or position of fields in the usage data as disclosed in Col. 7, lines 2-14.



**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.


For the above reasons, it is believed that the rejections should be sustained.

An Appeal conference was held on June 21, 2006 with conferees: Jeffrey Gaffin (SPE) Charles Rones (SPE) and Sana AL-Hashemi (Assistant Examiner).

Respectfully submitted,

July 10, 2006

Conferees:

  
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